

Public Comment to USEPA Memorandum, "Interim Statement and Guidance on Application of Pesticides to Water of the United States in Compliance with FIFRA, dated July 11, 2000.

(1) MEMORANDUM LACKS SUFFICIENT PRIORITY AND COORDINATION TO GET AT A WORKABLE SOLUTION - This memorandum has been prepared by the Assistant Administrator for Water (4101) and the Assistant Administrator for Prevention, Pesticides and Toxic Substances (7101), this memorandum has not been elevated at a high enough level to give this issue the attention that it deserves. There are regulatory gaps and neither Assistant Administrator can go beyond the regulatory mandates that they are authorized to oversee. Because of this, the memorandum does not address the confusion or needs that FIFRA fails to address which the U.S. Court of appeals for the Ninth Circuit hoped to resolve. As a former environmental consultant and federal employee and having worked under programs such as CERCLA and Hazardous Solid Waste Amendments (HSWA), I am particularly surprised by the level of coordination that this memorandum has received. Also, instead of focusing on definitions of whether pesticides are a product or not, the preparers should be focusing on whether a "release" (See 40 CFR 264.97) of hazardous constituents has occurred. Which indeed it has because the Oregon Department of Fish and Wildlife found many dead fish in nearby Bear Creek and over 92,000 juvenile steelhead were killed. An earlier fish kill in Bear Creek followed an application of Magnacide in 1983. [ER pp. 34-35]. In any case, no professional could argue that a release did not occur in these cases and if FIFRA and the CWA do not address these issues currently, then this illustrates that the current regulatory framework is not sufficient to deal with the issues here.

(2) THE U.S. NEEDS A NATIONAL PESTICIDE MANAGEMENT PLAN - While pesticides are currently considered valuable and necessary to provide sufficient quantity of quality foods and for the protection of humans from vector borne diseases, the protection of man and his essential needs--water, air, food, animals, vegetation, pollinating insects, and shelter from pesticides, which are potentially dangerous--is in the public interest now and in the future.

Currently, there is a patchwork of Acts and initiatives that don't fully address the impacts that pesticides are having on human health and the environment.

- The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 seeks to limit new aquatic invasions but does not fully embrace an Integrated Pest Management (IPM) approach.
- Federal agencies are to use Integrated Pest Management techniques (7 U.S.C. §5881[c]) in carrying out pesticide management activities but funding doesn't exist at the State level where the aquatic herbicide permits are issued.
- False safety claims by herbicide applicators are a problem but the U.S. EPA doesn't have the authority to litigate against herbicide applicators only manufacturers and distributors creating an American culture of ignorance

when it comes to the inherent toxicity and risks of using pesticides (See GAO Report GAO/RCED-90-134).

- FIFRA rarely can pull a harmful pesticide off the market using the existing risk-based and economically based approach given the amount of data that needs to be collected to determine long-term chronic effects.
- FIFRA allows for aquatic herbicides such as fluridone to be used in drinking water reservoirs even though the EPA Endocrine Disruption Committee has just been formed to start evaluating whether pesticides are endocrine disruptors. Fluridone is suspected to possibly interfere with human neurological processes but there hasn't been enough research to validate the findings. <http://www.plantphysiol.org/cgi/content/full/128/3/788>. Diquat, another aquatic herbicide, is believed to cause Parkinson's. [http://www.vegsource.com/articles/parkinsons\\_pesticide.htm](http://www.vegsource.com/articles/parkinsons_pesticide.htm)
- Under the National Assessment of Water Quality Program, the USGS has been given the task of monitoring the extent of contamination but there is no Act to protect our nation's water quality from pesticides. USGS staffs explain the "most striking findings".

...{O} ne or more pesticides were found in almost every stream sample collected. More than 95 percent of the samples collected from streams and almost 50 percent of samples collected from wells contained at least one pesticide....Major rivers, as well as agricultural and urban streams had relatively high frequencies of detection.
- The Children's and Families Protection Act does not protect children and families from the harmful effects of pesticides in water bodies, lakes and ponds where they swim. Children and pregnant women swim the day after aquatic herbicides are applied to ponds at levels high enough to kill invasive weeds.
- There are no requirements on FIFRA labels to limit the use of aquatic pesticides around private or municipal drinking water wells that draw from groundwater. (See Stowe/Hudson Lake Boon NOI for a lawsuit ) [http://www.townonline.com/wayland/news/local\\_regional/way\\_newwaweeds\\_05212003](http://www.townonline.com/wayland/news/local_regional/way_newwaweeds_05212003).
- Human testing of pesticides has been proposed but is a potential liability to the U.S. government and taxpayers who will pay the damages to test subjects in the long-term. Similarly, to what was experienced by the U.S. Dept of Energy with their radiation testing on human subjects.

(3). TAX THE LARGE PROFITS MADE BY HERBICIDE APPLICATORS TO  
CREATE A NATIONAL PESTICIDE MANAGEMENT PLAN -

The State of Montana has been a leader in designing a state plan to deal with pesticides. They have created disincentives on the current short-term and harmful practices of continued use of aquatic and terrestrial herbicides. They used the proceeds from herbicide usage or chemical sales to be reverted to the noxious aquatic weed fund. This approach is consistent with the current U.S. policy for promoting an Integrated Pest Management (IPM) policy and discourages the use of pesticides over other non-chemical alternatives.

Thank you for your Consideration,

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